



California Fair Political Practices Commission

May 4, 1987

Odessa T. Hall
City Clerk
City of Emeryville
2449 Powell Street
Emeryville, CA 94608

Re: Your Request for Advice
Our File No. A-87-106

Dear Ms. Hall:

You have requested advice concerning the conflict of interest disclosure provisions of the Political Reform Act.^{1/}

QUESTION

You have asked whether the executive director of the Emeryville Redevelopment Agency and the deputy city attorney who acts as the planning commission's attorney are required to file Statements of Economic Interests and, if so, whether they are required to file the Form 730 or the Form 721.

CONCLUSION

The deputy city attorney and the executive director are required to file Statements of Economic Interests, Form 730, if their positions are designated in the conflict of interest code of the city or the redevelopment agency. If their positions are not designated in a conflict of interest code, they are not required to file Statements of Economic Interests.

ANALYSIS

The Act requires public officials to disclose their assets and income which may be materially affected by their official actions. (Section 81002(c).)

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

Section 87200 provides that certain high-level elected and appointed public officials, and candidates for those positions, must file Statements of Economic Interests. These officials must file the Form 721. The city positions included in Section 87200 are mayor, city manager, city attorney, chief administrative officer and city council members.

Section 87300 provides that every agency shall adopt a conflict of interest code. Section 87302 provides that each conflict of interest code shall include:

enumeration of the positions within the agency which involve the making or participating in the making of decisions which may foreseeably have a material effect on any financial interest of the official...

~~Section 87302 further provides that the code shall specify, for~~ each designated position, the types of assets and income which may foreseeably be affected materially by any decision made or participated in by the designated employee. Employees whose positions are designated in a conflict of interest code are referred to as "designated employees." Designated employees report their financial interests on the Form 730.

With regard to the deputy city attorney and the executive director, because their positions are not specified in Section 87200, they are not required to file the Form 721. If their positions are designated in the conflict of interest code of the City of Emeryville or the redevelopment agency, they must file a Form 730 and report those assets and income specified in the disclosure category for their positions as set out in the conflict of interest code.

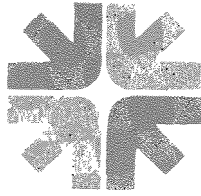
I hope this satisfactorily explains the conflict of interest disclosure requirements for city employees.

I regret that there was a misunderstanding concerning the information you received by telephone from our office.

Sincerely,

Diane M. Griffiths
General Counsel

By: Jeanne Pritchard
Chief, Technical Assistance
& Analysis Division



F P P C

APR 3 10 42 AM '87

CITY OF EMERYVILLE
709 POWELL STREET
EMERYVILLE, CALIFORNIA 94608
INCORPORATED 1996
(415) 654-6161

April 2, 1987

Ms. Diane Griffiths
Calif. Fair Political
Practices Commission
428 "J" Street, Suite 800
P. O. Box 807
Sacramento, CA 95804-0807

Re: FPPC Reporting Requirements

Dear Ms. Griffiths:

A call was placed on March 30, 1987, regarding two positions in the City of Emeryville. One was the Deputy City Attorney registered with the California Bar Association who signs off on the documents in the absence of the City Attorney, and sits as attorney for the Planning Commission. The other was the Executive Director of the Redevelopment Agency. I was told that these two persons would be required to file a Form 721. I was asked if the Deputy City Attorney was included in the conflict of interest for designated employees, and the answer was "no".

Please note the memorandum from the City Attorney which is in conflict with the answers that were given to me by the Technical Division of the Fair Political Practices Commission Office. There should be some consistencies in answers given to establish credibility within the City offices. In as much as I am not responsible for the filer, the responsibility lies with the filers. I am concerned about City staff filing in a timely way. Consistency is what I am asking for and clarification from your office regarding the above City officers.

Sincerely,

Odessa T. Hall
City Clerk

Encl.

MEMORANDUM

TO: ODESSA T. HALL, CITY CLERK

FROM: MARK J. DOANE, CITY ATTORNEY 

DATE: APRIL 1, 1987

SUBJECT: FPPC REPORTING REQUIREMENTS

On March 31st my Department called the FPPC regarding the conflict of interest reporting requirements for Assistant City Attorney Susan Adams and Agency Executive Director Hunter Johnson. We spoke to a Ms. Betty Brown, who told us the following:

- as to Hunter, he must file a Form 730 with the City only (not the FPPC). He is not required to file a Form 721.
- as to Susan, she is not required to file anything, because she is not designated in the City's Conflict of Interest Code. If she were designated in the City's Code, she would be required to file a Form 730 with the City only.

As you know, Emeryville's Conflict of Interest Code needs to be amended to reflect various staffing changes that have occurred in the past year. I will undertake to amend the Code, hopefully in time to get it on the April 21st Agenda. When I do that, I will include Susan's position in the list of persons required to file Conflict of Interest Statements.

Diane Griffiths



California Fair Political Practices Commission

April 9, 1987

Odessa T. Hall
City Clerk
2449 Powell Street
Emeryville, CA 94608

Re: 87-106

Dear Ms. Hall:

Your letter requesting advice under the Political Reform Act was received on April 3, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeanne Pritchard".

Jeanne Pritchard
Chief

Technical Assistance and Analysis
Division

JP:plh